

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:24-cv-24734-GAYLES

BRIGHTLINE TRAINS FLORIDA, INC.,

Plaintiff,

v.

NATIONAL MEDIATION BOARD,

Defendant,

and

TRANSPORT WORKERS UNION OF
AMERICA, AFL-CIO,

Intervenor.

JOINT MOTION FOR WITHDRAWAL FROM MEDIATION

Plaintiff, Brightline Trains Florida LLC (Brightline Florida); Defendant, National Mediation Board (NMB); and Intervenor, Transport Workers Union of America (TWU, and collectively with Brightline Florida and NMB, the Parties), by and through the undersigned counsel and pursuant to Local Rule 16.2(d)(4) of the Local Rules for the Southern District of Florida, hereby move to withdraw this case from mediation; and, in support thereof, state the following:

1. This is an action brought by Brightline Florida under the Administrative Procedure Act (APA) challenging the NMB's jurisdictional determination that Brightline Florida is subject to the Railway Labor Act (RLA).

2. Brightline Florida's APA claim turns on the resolution of a purely legal question: whether Brightline Florida is in fact subject to the RLA.

3. TWU's counterclaim, which Brightline Florida has moved to dismiss under Fed. R. Civ. P 12, asserts a legal claim that Brightline Florida's position, that it is not subject to the RLA, places it in violation of Section 2 First of the RLA; the counterclaim will be affected by resolution of the issue raised by Brightline Florida's complaint.

4. Local Rule 16.2 allows any case to be "exempt or withdrawn from mediation . . . upon application of a party and/or determination for any reason that the case is not suitable for mediation." Local Rule 16.2(d)(4).

5. As this case is dependent upon the resolution of discrete legal questions, it is not suitable for mediation.

6. The parties jointly move for this case to be exempt or withdrawn from mediation.

WHEREFORE, for the above stated reasons, the Parties move to withdraw this case from mediation.

HAYDEN P. O'BYRNE
UNITED STATES ATTORNEY

Anthony Erickson-Pogorzelski

Anthony Erickson-Pogorzelski
(Fla. Bar No. 619884)
Assistant U.S. Attorney
99 N.E. 4th Street, 3rd Floor
Miami, FL 33132
(305) 961-9296
anthony.pogorzelski@usdoj.gov

Counsel for National Mediation Board

Mark H. Richard¹

Mark H. Richard (Florida Bar No. 305979)
Christina S. Gornail (Florida Bar No. 085922)
Phillips, Richard & Rind, P.A.
9360 S.W. 72nd Street, Suite 283
Miami, FL 33173
(305) 412-8322
(305) 412-8299 (facsimile)
mrichard@phillipsrichard.com
cgornail@phillipsrichard.com

Richard S. Edelman
Aaron S. Edelman
Mooney, Green, Saindon, Murphy & Welch
1620 Eye Street, N.W., Suite 700
Washington, D.C. 20006
(202) 783-0010
(202) 783-6088 (facsimile)
redelman@mooneygreen.com
aedelman@mooneygreen.com

Counsel for Transport Workers Union of America

Respectfully submitted,

Lawrence D. Silverman²

Lawrence D. Silverman (Fla. Bar No. 7160)
Sidley Austin LLP
1001 Brickell Bay Drive, Suite 900
Miami, FL 33131
(305) 391-5100
(305) 391-5101 (facsimile)
lawrence.silverman@sidley.com

Terence M. Hynes
Raymond A. Atkins
Ellen Crisham Pellegrini
Sidley Austin LLP
1501 K Street NW
Washington, DC 20005
(202) 736-8000
(202) 736-8711 (facsimile)
thynes@sidley.com
ratkins@sidley.com
epellegrini@sidley.com

Counsel for Brightline Trains Florida LLC

¹ Electronically filed with written authorization

² Electronically filed with written authorization.